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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/491,675

01/26/2000

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FUSI-04101

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02/25/2009

EXAMINER

ALAM, SHAHID AL

ART UNIT

PAPER NUMBER

2162

MAIL DATE

DELIVERY MODE

02/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: DAVID L. MULTER, ROBERT E. GARNER,
LEIGHTON A. RIDGARD, LIAM J. STANNARD,
DONALD W. CASH and RICHARD M. ONYON

Application No. 09/491,675
Technology Center: 2100

Mailed: February 25, 2009

Before GLORIA HENDERSON, *Review Team Paralegal*
HENDERSON, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on February 18, 2009. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

AMENDMENT AFTER FINAL

A review of the file indicates that on July 21, 2008, appellants filed an Appeal Brief with an Amendment, which canceled claim 64. It is not clear whether this Amendment has been considered because the Examiner's Answer filed on October 2, 2008 included Claim 64 in the Grounds of Rejection. Further, the examiner failed to indicate whether or not the proposed amendment will or will not be entered for purposes of appeal. Clarification from the Examiner is required.

EXAMINER'S ANSWER –NEW GROUNDS OF REJECTION

The Examiner's Answer mailed October 2, 2008, included a New Grounds of Rejection. When a new ground of rejection is introduced in the Examiner's Answer, the Examiner is required to obtain approval of the Technology Center Director or his/her designee. *See Manual of Patent Examining Procedure* (MPEP) § 1207.02 and 1207.03 (8th ed. Rev. 6, Sept. 2007) for details.

CONCLUSION

Accordingly, it is

ORDERED that the application is electronically returned to the examiner to:

- 1) appropriately respond to the Amendment After Final, filed on July

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21, 2008;

- 2) vacate the Examiner's Answer mailed October 2, 2008;
- 3) provide a new Examiner's Answer including a correct "Status of Amendment" section in addition to correction to other sections as required;
- 4) issue a revised Examiner's Answer to include the approval of the Technology Center Director or his/her designee, and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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